

original

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)

Petition for Commission Assumption
of Jurisdiction of Low Tech Designs, Inc.'s
Petition for Arbitration with Ameritech Illinois
Before the Illinois Commerce Commission)

CC Docket No. 97-163

Petition for Commission Assumption
of Jurisdiction of Low Tech Designs, Inc.'s
Petition for Arbitration with BellSouth Before
the Georgia Public Service Commission)

CC Docket No. 97-164

Petition for Commission Assumption
of Jurisdiction of Low Tech Designs, Inc.'s
Petition for Arbitration with GTE South Before
the Public Service Commission of South Carolina)

CC Docket No. 97-165

**REPLY COMMENTS OF LOW TECH DESIGNS
TO OPPOSITION OF AMERITECH ILLINOIS**

Low Tech Designs, Inc. ("LTD") respectfully submits its reply comments to the
Opposition of Ameritech Illinois to Petition for Reconsideration ("Opposition").

Ameritech Illinois quotes previous decisions pointing to necessary conditions for reconsideration of an FCC decision, claiming that reconsideration "is only appropriate where the petitioner either shows a material error or omission in the original order or raises additional facts not known or not existing until a petitioner's last opportunity to present such matters".

Ameritech Illinois claims that LTD's *Petition for Reconsideration* fails both tests. Ameritech Illinois is grossly mistaken in their analysis of LTD's *Petition for Reconsideration*, which does show material errors and omissions in the FCC's October 8, 1997 *Memorandum*

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Opinion and Order (“Opinion”) in the above captioned cases. LTD’s *Petition for Reconsideration* also raises additional facts that were not known in LTD’s original assumption petition. These claims will be shown and justified below.

MATERIAL ERRORS AND OMISSIONS

LTD’s *Petition for Reconsideration* conclusively showed a failure of the FCC to reach a decision in their *Opinion* regarding the legal standing of LTD as a telecommunications carrier as defined by the Telecommunications Act of 1996 (“Act”) and FCC rules implementing the Act. By failing to take a position on LTD’s claim to be a telecommunications carrier under the Act, the FCC committed a major material error and omission, since this determination greatly affects the FCC’s legal reasoning and their faulty determination that a failure to act under Section 252(e)(5) of the Act did not occur.

LTD *Petition for Reconsideration* conclusively showed that arbitration before, and the production of an interconnection agreement by state commissions, is a federally mandated right of requesting telecommunications carriers. LTD’s right to arbitration may only be denied if LTD does not qualify as a federally defined telecommunications carrier. The FCC never reached this critical question. LTD’s *Petition for Reconsideration* frames this legal question in a manner that requires the FCC to reach this threshold determination, and is therefore a valid reason for reconsideration of the FCC *Opinion*.

ADDITIONAL FACTS RAISED IN LTD’S PETITION

LTD also raised additional facts that escaped FCC review in its *Petition for Reconsideration*. LTD showed that evidence was originally introduced to support LTD’s claim that BellSouth Telecommunications, Inc. did in fact acknowledge LTD as a telecommunications

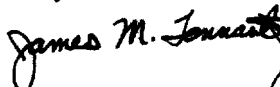
carrier in their answer to LTD's original petition for arbitration before the Georgia PSC. The FCC had erroneously failed to notice this fact in their review of the Georgia PSC's filings made in CC Docket 97-164, and made note of their failure in footnote 48 in their *Opinion*.

LTD also showed a *chronological sequence* of state commission decisions and ILEC legal filings, as requested recently by the FCC to be included in future section 252(e)(5) petitions submissions. Starting with the South Carolina, Illinois and then Georgia Commissions, LTD showed an important sequence of events that were apparently not known to the FCC prior to their *Opinion*. These state decisions were shown to be contradictory and not in accordance with FCC Rules implementing the Telecommunications Act. LTD also showed new facts pointing to a continued failure to negotiate in good faith by the ILEC's in their involvement in the state decisions. This information is critical for a complete understanding of the events surrounding the three state denials or dismissals of LTD arbitration petitions.

LTD also pointed to FCC statements contained implementing the Act, not originally considered by the FCC, that established arbitration as a right of requesting telecommunications carriers, further supporting LTD's claim to a failure to act by the state commissions.

Ameritech Illinois *Opposition* and request for denial of LTD's Petition for Reconsideration is totally without merit and should be ignored.

Respectfully submitted, this 3rd day of December, 1997.


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CERTIFICATE OF SERVICE

I hereby certify that I have this day served one copy of Low Tech Designs, Inc. REPLY COMMENTS OF LOW TECH DESIGNS TO OPPOSITION OF AMERITECH ILLINOIS by first class mail in a properly addressed envelope with adequate postage thereon to insure delivery to the following parties:

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This 3rd day of December,
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